

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

Amy Denstedt,

Plaintiff,

v.

Legal Prevention Services, LLC,

Defendant.

Case No.

Complaint and Demand for Jury Trial

COMPLAINT

Amy Denstedt (Plaintiff), by and through her attorneys, **Kimmel & Silverman, P.C.**, alleges the following against **Legal Prevention Services, LLC** (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227.

JURISDICTION AND VENUE

2. This Court has subject-matter jurisdiction over the TCPA claims in this action under 28 U.S.C. § 1331, which grants this court original jurisdiction of all civil actions arising under the laws of the United States. See Mims v. Arrow Fin. Servs., LLC, 565 U.S. 368, 386-87 (2012) (confirming that 28 U.S.C. § 1331 grants the United States district courts federal-question subject-matter jurisdiction to hear private civil suits under the TCPA).

3. This Court has personal jurisdiction over Defendant because Defendant regularly conducts business in the State of Michigan and because the occurrences from which Plaintiff's cause of action arises took place and caused Plaintiff to suffer injury in the State of Michigan.

4. Venue is proper under 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Petoskey, Michigan 49770.
6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).
7. Defendant is a business entity with principal place of business, head office, or otherwise valid mailing address at 4315 South Buffalo Street, P.O. Box 639, Orchard Park, New York 14127.
8. Defendant contracts with clients to contact persons who owe debts to those clients via telephone, the U.S. Mail, and/or the Internet in an attempt to solicit or encourage those persons to remit monies to Defendant or its clients in satisfaction of those debts.
9. Defendant is a “person” as that term is defined by 47 U.S.C. § 153(39).
10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and/or insurers.

FACTUAL ALLEGATIONS

11. Plaintiff has a cellular telephone number.
12. Plaintiff has only used this phone number as a cellular telephone.
13. Defendant repeatedly called Plaintiff on her cellular telephone.
14. Within the first few calls, Plaintiff told Defendant’s representative Samantha that she had paid the debt and that she did not wish to be contacted
15. Defendant heard and acknowledged Plaintiff’s instruction to stop calling.
16. Once Defendant was informed that its calls were unwanted, and that Plaintiff wanted it to stop calling, its continued calls could have served no lawful purpose.
17. However, Defendant persisted in calling Plaintiff.

18. During this time, Defendant contacted Plaintiff using an automated telephone dialing system and/or pre-recorded voice.

19. Plaintiff knew that Defendant's calls were automated calls as the calls would start with a pause or delay before being connected with Defendant's live representatives.

20. Defendant's incessant calls were bothersome, disruptive and frustrating for Plaintiff to endure.

**COUNT I
DEFENDANT VIOLATED THE TCPA**

21. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

22. The TCPA prohibits placing calls to a cellular telephone using an automatic telephone dialing system or automatically generated or prerecorded voice unless otherwise expressly permitted by law. 47 U.S.C. § 227(b)(1)(A)(iii).

23. Defendant initiated repeated calls to Plaintiff's cellular telephone.

24. Defendant initiated these calls to Plaintiff using an automatic telephone dialing system.

25. Defendant initiated multiple telephone calls to Plaintiff's cellular telephone number with a prerecorded or automatically generated voice.

26. Defendant's calls to Plaintiff's cellular telephone were not made with Plaintiff's prior express consent.

27. Defendant's calls to Plaintiff's cellular telephone were not made for emergency purposes.

28. Defendant's conduct violated the TCPA by placing repeated calls using an automatic telephone dialing system and/or prerecorded or automated voice to Plaintiff's cellular telephone.

29. The TCPA provides that where a defendant willfully or knowingly violated the TCPA or regulations prescribed thereunder, the Court may impose treble damages. 47 U.S.C. § 227(b)(3).

30. When Defendant called Plaintiff in or around April 2018, it knew no later than Plaintiff's first instruction to stop calling that it did not have prior express consent to call Plaintiff.

31. When Defendant called Plaintiff in or around April 2018, it knew it was placing calls to a cellular telephone.

32. Defendant's violation of the TCPA was therefore either willful or knowing starting no later than the date of Plaintiff's first instruction to stop calling.

33. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above, entitling Plaintiff to injunctive relief and an award of statutory, actual, and treble damages.

Wherefore, Plaintiff, **Amy Denstedt**, respectfully prays for judgment as follows:

- a. All actual damages Plaintiff suffered (as provided in 15 U.S.C. § 1692k(a)(1));
- b. Statutory damages of \$1,000 for the violation of the FDCPA (as provided under 15 U.S.C. § 1692k(a)(2)(A))
- c. All reasonable attorneys' fees, witness fees, court costs, and other litigation costs (as provided under 15 U.S.C. § 1693k(a)(3));

- d. All actual damages Plaintiff suffered (as provided under 47 U.S.C. § 227(b)(3)(A));
- e. Statutory damages of \$500.00 per violative telephone call (as provided under 47 U.S.C. § 227(b)(3)(B));
- f. Treble damages of \$1,500.00 per violative telephone call (as provided under 47 U.S.C. § 227(b)(3));
- g. Injunctive relief (as provided under 47 U.S.C. § 227(b)(3)); and
- h. Any other relief this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff, **Amy Denstedt**, demands a jury trial in this case.

Respectfully submitted,

Dated: 10/18/19

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